

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA

SOUTHEASTERN BOLL WEEVIL  
ERADICATION FOUNDATION,

Plaintiff,

VS.

BOLL WEEVIL ERADICATION  
FOUNDATION OF GEORGIA, INC.;  
TOMMY IRVIN in his capacity as  
TRUSTEE OF BOLL WEEVIL  
ERADICATION FOUNDATION OF  
GEORGIA, INC.,

Defendants.

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Civil Action No. 2:06-CV-00756

REPORT OF PARTIES' PLANNING MEETING

1. Pursuant to Fed.R.Civ.P. 26(f), a meeting was held on October 16, 2006 by  
conference call and was attended by:

Mitchell D. Henry

**For Plaintiff Southeastern Boll Weevil Eradication Foundation**

Duke R. Groover

William H. Noland

Simeon F. Penton

**For Defendant Boll Weevil Eradication Foundation of Georgia, Inc.**

2. Pre-Discovery Disclosures. The parties will exchange by December 1, 2006 the  
information required by Fed.R.Civ.P. 26(a)(1).

3. Discovery Plan. The parties jointly propose to the court the following discovery  
plan:

Discovery will be needed on the following subjects:

- (a) Plaintiff's Breach of Contract claim;
- (b) Plaintiff's Unjust Enrichment claim;
- (c) Plaintiff's Money Owed claim;
- (d) Plaintiff's Breach of Fiduciary Duty claim;
- (e) Plaintiff's Declaratory Judgment claim;
- (f) Plaintiff's Injunctive Relief claim;
- (g) Defendant's Accord and Satisfaction defense;
- (h) Defendant's Estoppel defense;
- (i) Defendant's Failure of Consideration Defense;
- (j) Defendant's Fraud defense;
- (k) Defendant's Illegality defense;
- (l) Defendant's Payment defense;
- (m) Defendant's Waiver defense;
- (n) Defendant's Breach of Contract claim;
- (o) Defendant's Breach of Fiduciary Duty claim;
- (p) Defendant's Promissory Estoppel claim;
- (q) Defendant's Conversion claim;
- (r) Defendant's Equitable Accounting claim;
- (s) Defendant's Declaratory Judgment claim.

- (t) Plaintiff's Failure to Mitigate Damages defense;
- (u) Plaintiff's Assumption of the Risk defense;
- (v) Plaintiff's Independent Intervening Cause defense;
- (w) Plaintiff's Statute of Limitations defense;
- (x) Plaintiff's Justification defense;
- (y) Plaintiff's Laches defense;
- (z) Plaintiff's Waiver defense;
- (aa) Plaintiff's Estoppel defense;
- (bb) Plaintiff's Impossibility defense;
- (cc) Plaintiff's Unclean Hands defense;
- (dd) Plaintiff's Noncompliance defense;
- (ee) Plaintiff's Prior Breach defense;
- (ff) Plaintiff's Accord and Satisfaction defense;
- (gg) Plaintiff's Failure of Consideration defense; and
- (hh) Plaintiff's Failure of Condition Precedent or Subsequent defense.

All of the claims and defenses set forth above, upon which discovery will need to be conducted, relate to the relationship between the parties over the last several years. The focus of discovery will be the nature and extent of that relationship, whether it be contractual, fiduciary, or otherwise. Discovery will also focus on accounting for money and benefits which have passed between the parties.

All discovery commenced in time to be completed by September 17, 2007.

Maximum of 40 interrogatories by each party to any other party. Responses due 30 days after service.

Maximum of 25 requests for admission by each party to any other party. Responses due 30 days after service.

Maximum of 35 depositions by plaintiff and 35 by defendants.

Each deposition limited to maximum of 7 hours unless extended by agreement of parties.

Reports from retained experts under Rule 26(a)(2) due:

from plaintiff by May 14, 2007

from defendants by June 18, 2007

Supplementations under Rule 26(e) due in 90 day intervals.

4. Other items.

The parties request a conference with the court before entry of the scheduling order.

The parties request a pretrial conference with the court in October, 2007.

Plaintiff should be allowed until April 9, 2007 to join additional parties and until April 9, 2007 to amend the pleadings.

Defendants should be allowed until May 9, 2007 to join additional parties and until May 9, 2007 to amend the pleadings.

All potentially dispositive motions should be filed by July 2, 2007.

Settlement cannot be evaluated prior to September 17, 2007.

Final lists of witnesses and exhibits under Rule 26(a)(3) should be due:

from plaintiff by October 15, 2007

from defendants by October 15, 2007

Parties should have 15 days after service of final lists of witnesses and exhibits to list objections under Rule 26(a)(3).

All of the dates set forth above correspond to a November 26, 2007 trial date.

Defendant believes this case will not be ready for trial until November 26, 2007. Plaintiff believes the trial date should be October 1, 2007. If the Court selects October 1, 2007 as the trial date then the parties will resubmit a proposed discovery plan with dates corresponding to the October 1, 2007 trial date. At this time trial is expected to take approximately 5 to 7 days.

This 19<sup>th</sup> day of October, 2006.

/s/ Mitchell D. Henry

MITCHELL D. HENRY

Alabama Bar No. HEN046

/s/ T. Randall Lyons

T. RANDALL LYONS

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